IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12648 of 2004

Between:

M/s. Gopinath Agencies, Nampally Station Road, Hyd, rep. by Proprietor, Sri Navneeth Das.

..... PETITIONER

AND

1 The Addl. Commissioner (CT)(Legal)(FAC), Office of the Commissioner (CT), Commrl. Taxes Complex, Nampally, Hyd.
2 The Dy. Commissioner of Commercial Taxes, Abids Division, Hyd.
3 The Commercial Tax Officer, M.J. Market Circle, Hyderabad.
4 The Secretary, Sales Tax Appellate Tribunal, A.P. Commercial Taxes Complex, Nampally, Hyd.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of a writ of Mandamus, declaring the action of the 1st respondent in rejecting the Revision Application (Stay Application) by his order in CCT"s Ref. No. L> III(1)/1243/2004, Dt. 12.7.2004 pending appeal before the 4th respondent, as illegal, arbitrary, unconstitutional and consequentially direct the 3rd respondent not to take coercive steps for collection of the disputed tax of Rs.1,50,593/- for the assessment year 1995-96 (APGST), .

Counsel for the Petitioner:MR.A.K.JAISWAL, Advocate.

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at the stage of admission, made the following :

ORDER : (Per Sri Bilal Nazki, J).

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

21st July, 2004.

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(S.ANANDA REDDY, J)

ajr.

To

1 The Addl. Commissioner (CT)(Legal)(FAC), Office of the Commissioner (CT), Commrl. Taxes Complex, Nampally, Hyd.
2 The Dy. Commissioner of Commercial Taxes, Abids Division, Hyd.
3 The Commercial Tax Officer, M.J. Market Circle, Hyderabad.
4 The Secretary, Sales Tax Appellate Tribunal, A.P. Commercial Taxes Complex, Nampally, Hyd.

5 Two C.Cs. to the G.P.for Commercial Taxes, High Court buildings, Hyderabad (O.U.T).

6 Two C.D. copies.